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ABSTRACT

The superintendent's contract embodies the community's expectations of the school system's chief executive officer. The contract allows the school board and the superintendent to accomplish a number of tasks, including assuring stability in the district's leadership, creating means for resolving conflicts, and establishing procedures for meeting the board's standards and expectations. Both the board and the superintendent should have the contract reviewed by their attorneys. Because superintendents generally cannot hold tenure, the contract is a superintendent's only tangible employment security protection. A model contract should cover the following items: the contract's term; a brief description of the superintendent's professional responsibilities; salary amount; regular fringe benefits as well as association dues payments, life insurance, and indemnification against job-related claims against the superintendent; evaluation areas and the rating systems to be used; contract renewal processes; and provision for board approval of the contract in a public meeting. (RW)

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SUPERINTENDENT CONTRACTS: WHAT SHOULD THEY SAY?

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Paper presented at the Annual Meeting of the National School Boards Association (41st, Dallas, TX, April 11-14, 1981).

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SUPERINTENDENT CONTRACTS: WHAT SHOULD THEY SAY? PANEL A-3, NSBA

WAYNE E. SCHAIBLE, SCHOOL DISTRICT 54, SCHAUMBURG, ILLINOIS, APRIL 1981

IN PREPARING FOR THIS DISCUSSION, I HAVE REVIEWED MUCH LITERATURE ON SUPERINTENDENT CONTRACTS. MOST OF IT WAS VERY SIMILAR AND CONTAINED A VARIETY OF INFORMATION ON THIS SUBJECT.

DURING MY RESEARCH, I CAME ACROSS A PAMPHLET FROM THE SUPERINTENDENT CAREER DEVELOPMENT SERIES, NO. 3, TITLED "THE SUPERINTENDENT'S CONTRACT." THIS PUBLICATION WAS PUBLISHED IN 1979 AS A JOINT VENTURE BY THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS AND THE NATIONAL SCHOOL BOARDS ASSOCIATION. I FEEL IT HAS THE MOST COMPLETE INFORMATION ON THE SUBJECT, AND I INTEND TO GIVE YOU HIGHLIGHTS FROM IT AT THIS TIME. I WOULD RECOMMEND THAT YOU SECURE A COPY FROM THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS.

A WELL DEVELOPED EMPLOYMENT CONTRACT SERVES AS A BASIS FOR BOTH THE SUPERINTENDENT AND THE SCHOOL BOARD TO REACH CERTAIN GOALS. THE CONTRACT IS ALSO BASIC TO BUILDING A CLEAR AND RATIONAL RELATIONSHIP BETWEEN THE BOARD AND SUPERINTENDENT.

THE UNDERSTANDING OF SCHOOL BOARD MEMBERS IS ISSENTIAL TO THE SUCCESS OF THE CONTRACTUAL RELATIONSHIP.

WHILE THE CONTENT OF THIS PUBLICATION IS, BY NATURE, SOMEWHAT TECHNICAL, IT DOES PROVIDE THE BASIC FRAMEWORK FOR FORMULATING A WORKABLE CONTRACT WITHIN THE LAWS AND PRACTICES OF INDIVIDUAL STATES AND COMMUNITIES.

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BEFORE FINALLY AGREEING ON PROVISIONS, BOTH THE SCHOOL BOARD AND THE SUPERINTENDENT SHOULD HAVE THEIR RESPECTIVE ATTORNEYS REVIEW THE MUTUALLY AGREED UPON EMPLOYMENT CONTRACT TO ASSURE THE PROPER FORM AND LEGALITY UNDER STATE LAW.

ALL SUPERINTENDENTS HAVE CONTRACTS WITH THEIR SCHOOL BOARDS. SOME CONTRACTS ARE WRITTEN; OTHERS ARE ORAL. SOME ARE PRECISE, WHILE OTHERS ARE GENERAL AND AMBIGUOUS. IT IS BENEFICIAL TO THE EDUCATIONAL PROGRAM OF THE DISTRICT, TO THE SCHOOL BOARD AND THE SUPERINTENDENT TO HAVE A WELL CONCEIVED, WRITTEN DOCUMENT THAT DESCRIBES THE RELATIONSHIP DESIRED BY BOTH PARTIES, CONFORMS WITH STATE LAW, AND IS GENERALLY ACCEPTABLE TO THE LOCAL COMMUNITY. IT MUST MEET THE NEEDS OF BOTH PARTIES.

FOR THE SCHOOL BOARD THE CONTRACT OFFERS AN OPPORTUNITY TO:

. COMMUNICATE ITS EXPECTATIONS

. ASSURE STABILITY IN THE TOP LEADERSHIP OF THE DISTRICT

. EXPRESS PUBLICLY THE IMPORTANCE OF THE SUPERINTENDENCY

. GUARANTEE RESPONSIBILITY FOR MAINTAINING QUALITY CONTROL OVER ITS POLICIES AND PROGRAMS

. ESTABLISH A PROCEDURE FOR ATTAINING EXPECTED STANDARDS OF PERFORMANCE

. PROVIDE FOR REGULAR OPPORTUNITIES TO EVALUATE AND REFINE ITS POLICIES AND PROCEDURES

. IDENTIFY AND ELIMINATE AREAS OF MISUNDERSTANDING (CAN BE ACCOMPLISHED DURING DEVELOPMENT OF A CONTRACT)

. ESTABLISH OR ENHANCE AN IMAGE FOR THE DISTRICT

FOR THE SUPERINTENDENT, THE CONTRACT OFFERS AN OPPORTUNITY TO:

. AGREE UPON METHODS FOR RESOLVING FUTURE CONFLICT

. SECURE SUFFICIENT TIME TO INSTITUTE HIS OR HER PROGRAMS

. SECURE EVALUATIVE STATEMENTS ON A REGULAR BASIS AS A GUIDE FOR IMPROVEMENT

. SECURE PROTECTION FROM ARBITRARY OR CAPRICIOUS ACTIONS BY THE BOARD

. BE ASSURED OF PERSONAL COMPENSATION FOR A STIPULATED PERIOD OF TIME

. BE ASSURED OF AN ORDERLY METHOD FOR RESOLVING DIFFERENCES

. BE RECOGNIZED AS THE ADMINISTRATIVE LEADER OF THE DISTRICT'S SCHOOLS

. ESTABLISH THE NATURE AND SCOPE OF THE BOARD'S EXPECTATIONS

. SET FORTH HIS/HER EXPECTATIONS FOR THE BOARD

. SECURE CONTINUITY OF POSITION OR ORDERLY NONRENEWAL PROCEDURES

THE CONTRACT IS A REFLECTION OF HOW THE BOARD FEELS ABOUT THE WORTH OF THE SUPERINTENDENT. SUPERINTENDENTS SHOULD RECOGNIZE THAT THE CONTRACT, ALONG WITH DISTRICT POLICIES ADOPTED BY THE SCHOOL BOARD, REPRESENTS A DECLARATION OF COMMUNITY EXPECTATIONS FOR THE CHIEF EXECUTIVE OFFICER OF THE SCHOOL SYSTEM.

IT IS HIGHLY DESIRABLE FOR THE SUPERINTENDENT OF SCHOOLS TO RETAIN PERSONAL LEGAL COUNSEL WHEN ENTERING INTO A CONTRACT. WHILE THE ATTORNEY FOR THE SCHOOL BOARD SHOULD REVIEW THE CONTRACT, BOARD COUNSEL SHOULD NOT BE EXPECTED, NOR ASKED, TO REPRESENT BOTH CONTRACTUAL PARTIES.

THE JOINT AASA/NSBA COMMITTEE BELIEVES THAT THE EMPLOYMENT CONTRACT BETWEEN A SCHOOL BOARD AND SUPERINTENDENT IS A LEGITIMATE LEADERSHIP ISSUE FOR NSBA AND AASA TO ADDRESS ON A NATIONAL SCALE. THE COMPILATION OF CONTRACTUAL PROVISIONS, WHEN FILTERED THROUGH STATE LAW, CUSTOMS AND PRACTICES, AND CONSIDERED WITHIN THE BOUNDS OF DISCRETIONARY AUTHORITY HELD BY LOCAL SCHOOL BOARDS, SHOULD ANSWER THE NEEDS OF BOTH SCHOOL BOARDS (WHICH SET EDUCATIONAL POLICY AT THE LOCAL LEVEL) AND SUPERINTENDENTS (WHO ARE EMPLOYED TO IMPLEMENT THAT POLICY). THE OVERALL IMPACT OF A SOUND SUPERINTENDENT'S CONTRACT SHOULD BE AN ENHANCED WORKING RELATIONSHIP BETWEEN THE SCHOOL BOARD AND SUPERINTENDENT. ULTIMATELY THOSE WHO WILL BENEFIT MOST ARE THE LEARNERS IN OUR PUBLIC SCHOOLS. A SOUND SUPERINTENDENT'S EMPLOYMENT CONTRACT STRENGTHENS LOCAL LAY CONTROL AND ACCOUNTABILITY FOR THE PUBLIC SCHOOLS.

IN MOST STATES, THE EMPLOYMENT CONTRACT IS THE ONLY TANGIBLE EMPLOYMENT SECURITY PROTECTION A SCHOOL SUPERINTENDENT ENJOYS. GENERALLY, THE SUPERINTENDENT DOES NOT HAVE TENURE IN THAT POSITION UNLESS SPECIFICALLY PROVIDED BY STATUTE OR OTHER LAW. AND EVEN WHERE THERE IS A STATUTE OR OTHER LAW CONFERRING A FORM OF TENURE ON A SUPERINTENDENT, THE EMPLOYMENT SECURITY AFFORDED IS FAIRLY GENERAL AND GUARANTEES ONLY A RUDIMENTARY "DUE PROCESS" TYPE OF HEARING. OFTEN, TENURE PROVISIONS PROTECT THE SUPERINTENDENT ONLY AS A TEACHER FOLLOWING DEMOTION FROM THE ADMINISTRATOR POSITION.

FOR SCHOOL BOARDS, A CAREFULLY DEVELOPED CONTRACT BETWEEN THE BOARD AND ITS CHIEF ADMINISTRATIVE OFFICER ALSO HAS MANY ADVANTAGES. IN THIS AGE OF INCREASED EMPHASIS ON ADMINISTRATOR ACCOUNTABILITY, AN EMPLOYMENT CONTRACT ENABLES THE BOARD TO SET EXACTLY THE TERMS AND CONDITIONS OF EMPLOYMENT AND SPELL OUT THE SPECIFIC RESPONSIBILITIES IT WANTS TO INVEST IN ITS CHIEF ADMINISTRATIVE OFFICER.

IN ESSENCE, THE SUPERINTENDENT'S CONTRACT REPRESENTS THE BASIC POLICY ESTABLISHED BY THE BOARD FOR THE PERFORMANCE OF THE SUPERINTENDENT AS WELL AS THE BASIC GOALS IT WANTS THE EXECUTIVE TO ACHIEVE IN THE LINE OF DUTY. A WELL-DEFINED CONTRACT OFFERS THE BOARD THE SECURITY OF KNOWING EXACTLY WHAT IT CAN EXPECT TO RECEIVE FOR THE COMPENSATION AND OTHER BENEFITS IT PROVIDES. THE BOARD SERVES AS THE REPRESENTATIVE OF THE PEOPLE FOR GOVERNING THE LOCAL PUBLIC SCHOOLS IN EVERY COMMUNITY IN AMERICA. A CAREFULLY DRAFTED SUPERINTENDENT'S EMPLOYMENT CONTRACT WILL ENHANCE THE BASIC GOAL SHARED BY THE SCHOOL BOARD AND SUPERINTENDENT OF PRESERVING LOCAL LAY CONTROL AND ASSURING ACCOUNTABILITY FOR PUBLIC ELEMENTARY AND SECONDARY EDUCATION IN OUR NATION.

EVERY SUPERINTENDENT HAS AN EMPLOYMENT CONTRACT, WHETHER EXPRESSED OR IMPLIED. SOME EMPLOYMENT CONTRACTS ARE FORMAL, PRECISE, WRITTEN AND SIGNED BY BOTH PARTIES. OTHERS ARE A HODGE-PODGE OF ORAL PROMISES WOVEN THROUGH A MAZE OF SCHOOL BOARD POLICIES AND PRACTICES. BUT, THE VERY FACT THAT A SUPERINTENDENT IS WORKING AND BEING COMPENSATED BY A SCHOOL DISTRICT INDICATES THE EXISTENCE OF SOME FORM OF CONTRACTUAL EMPLOYMENT RELATIONSHIP BETWEEN THE SCHOOL DISTRICT AND THE SUPERINTENDENT.

SINCE EVERY SUPERINTENDENT HAS AN EMPLOYMENT CONTRACT OF ONE SORT OR ANOTHER, THE REAL ISSUE IS:

WHAT IS THE BEST KIND OF EMPLOYMENT CONTRACT THAT A SCHOOL BOARD AND SUPERINTENDENT SHOULD HAVE?

A SUPERINTENDENT'S EMPLOYMENT CONTRACT SHOULD PROTECT THE INTERESTS OF THE PUBLIC IN MAINTAINING A SOUND EDUCATIONAL SYSTEM AND PROVIDE EQUITY FOR THE SUPERINTENDENT. A CLEAR UNDERSTANDING BETWEEN THE SCHOOL BOARD AND THE SUPERINTENDENT ON THE NATURE AND SCOPE OF THEIR RELATIONSHIP PROMOTES GOOD COMMUNICATION AND ESTABLISHES A FIRM BASIS FOR THE DEVELOPMENT OF THAT RELATIONSHIP. THE SUPERINTENDENT'S EMPLOYMENT CONTRACT, THEREFORE, CONTRIBUTES SIGNIFICANTLY TO SOUND GOVERNANCE AND ADMINISTRATION OF A SCHOOL DISTRICT. FAIRNESS FOR THE SUPERINTENDENT, WHOSE JUDGMENT AND LEADERSHIP ARE SUBJECT TO CONSTANT AND CLOSE SCRUTINY, IS A RUDIMENTARY PART OF GOOD PERSONNEL PRACTICE IN ANY SCHOOL DISTRICT.

WHILE DRAFTING A "MODEL" SUPERINTENDENT'S EMPLOYMENT CONTRACT THAT WILL FIT PERFECTLY ALL SITUATIONS IN THE UNITED STATES IS IMPOSSIBLE, THERE ARE CERTAIN COMMON ELEMENTS THAT SHOULD BE CONSIDERED IN CONTRACT PREPARATION. THESE ELEMENTS, WITH APPROPRIATE AMENDMENTS TO ASSURE RESPONSIVENESS TO LOCAL FACTORS, COULD BECOME A PART OF A "MODEL" CONTRACT FOR THE LOCAL COMMUNITY.

THE EMPLOYMENT CONTRACT BETWEEN THE SUPERINTENDENT AND THE SCHOOL BOARD IS A PRIME INSTRUMENT OF COMMUNICATION ABOUT THE EXPECTATIONS OF BOTH PARTIES. AS SUCH, THE SUPERINTENDENT SHOULD BRIEF NEW SCHOOL BOARD MEMBERS ON THE CONTRACT AS THEY TAKE OFFICE AND ACTUALLY SHOW THEM A COPY IF THEY REQUEST TO SEE ONE. AN ATMOSPHERE OF COMPLETE CANDOR IS ESSENTIAL TO A HEALTHY RELATIONSHIP BETWEEN THE SCHOOL BOARD AND SUPERINTENDENT.

PREAMBLE

THE PREAMBLE IS THE INTRODUCTORY SECTION OF THE EMPLOYMENT CONTRACT. IT USUALLY IS CHARACTERIZED BY A SERIES OF "WHEREAS" CLAUSES GENERALLY EXPLAINING THE CONTRACT'S PURPOSES.

TERM

THE TERM SECTION SETS FORTH THE PERIOD OF TIME THAT THE EMPLOYMENT CONTRACT IS IN EFFECT. THE EMPLOYMENT CONTRACT ALSO SHOULD INCLUDE A PROVISION FOR EXTENSIONS OF TERM.

TIME IS ALSO NECESSARY FOR THE DEVELOPMENT OF A SMOOTH WORKING RELATIONSHIP BETWEEN A SUPERINTENDENT AND SCHOOL BOARD. THIS IS PARTICULARLY TRUE IN HIGHLY POLITICIZED AND SINGLE ISSUE ORIENTED WORKING ENVIRONMENTS.

PROFESSIONAL RESPONSIBILITIES

GENERALLY, THE STATEMENT OF PROFESSIONAL RESPONSIBILITIES SHOULD BE AS BRIEF AS POSSIBLE. EXTENSIVE GENERALIZED DUTY STATEMENTS OFTEN CAUSE PROBLEMS WHEN A CONTRACT IS THROWN INTO LITIGATION.

COMPENSATION

THE ANNUAL SALARY OF THE SUPERINTENDENT SHOULD BE SPECIFIED IN WRITING AS WELL AS IN FIGURES. IT SHOULD BE PAYABLE IN TWELVE EQUAL MONTHLY INSTALLMENTS, EITHER THE FIRST OR THE LAST DAY OF THE MONTH, OR IN ACCORDANCE WITH THE PRACTICES OF THE DISTRICT, AT THE OPTION OF THE SUPERINTENDENT. THE BOARD SHOULD BE GIVEN THE RIGHT TO ADJUST THE SUPERINTENDENT'S COMPENSATION UPWARD. THAT ADJUSTMENT MAY OR MAY NOT BE IN CONNECTION WITH EXTENDING THE TERM OF THE CONTRACT.

BENEFITS

THE SUPERINTENDENT SHOULD BE ENTITLED TO ALL FRINGE BENEFITS NORMALLY RECEIVED BY ANY OTHER SCHOOL DISTRICT ADMINISTRATOR. THOSE BENEFITS INCLUDE MEDICAL, RETIREMENT, INSURANCE, AND VACATION. IN ADDITION, THE SUPERINTENDENT, BECAUSE OF THE UNIQUENESS OF THE POSITION, MAY RECEIVE SPECIAL FRINGE BENEFITS NOT AVAILABLE TO OTHER SCHOOL ADMINISTRATORS INCLUDING:

A SPECIFIC PROVISION FOR PAYMENT OF NATIONAL AND STATE ASSOCIATION DUES BENEFITS BOTH THE DISTRICT AND SUPERINTENDENT. DUES PAYMENT MAKES AVAILABLE TO THE SUPERINTENDENT NUMEROUS PROFESSIONAL SERVICES. IT ALSO FACILITATES CONTACTS AND EXCHANGE OF INFORMATION WITH OTHER ADMINISTRATORS ON BOTH A STATE AND NATIONAL BASIS. IN SOME STATES THE PAYMENT OF PROFESSIONAL ASSOCIATION DUES BY THE DISTRICT IS NOT PERMITTED.

A CONTRACT PROVISION INCLUDING LIFE INSURANCE MIGHT TAKE A NUMBER OF FORMS, INCLUDING:

1) TERM INSURANCE
2) PAID-UP LIFE INSURANCE
3) WHOLE LIFE INSURANCE

OTHER FORMS OF INSURANCE SUCH AS 20 PAY LIFE AND 10 OR 20 YEAR ENDOWMENTS HAVE ALSO BEEN UTILIZED AS SPECIAL FRINGE BENEFITS.

ANOTHER OPTION MIGHT BE EXPLORED WITH THE DISTRICT, PARTICULARLY BY THOSE SUPERINTENDENTS CONSIDERING RETIREMENT AT THE END OF THE CONTRACT TERM. THAT OPTION WOULD ALLOW VOLUNTARY PAYMENT OF PREMIUMS BY THE SUPERINTENDENT, OR BY THE DISTRICT, WHICH WOULD PERMIT THE RETENTION OF GROUP INSURANCE BENEFITS AFTER RETIREMENT.

IF AN AUTOMOBILE IS PROVIDED, INSURANCE FOR THE AUTOMOBILE AS WELL AS A DISTRICT GASOLINE CREDIT CARD SHOULD BE THE RESPONSIBILITY OF THE DISTRICT. THE DISTRICT MAY PROVIDE AN AUTOMOBILE THROUGH LEASE OR OUTRIGHT PURCHASE.

INDEMNIFICATION OF THE SUPERINTENDENT AGAINST CLAIMS ARISING FROM PERFORMANCE OF DUTY SHOULD BE COVERED THROUGH A SPECIFIC CLAUSE IN THE CONTRACT AND/OR A BOARD OF EDUCATION POLICY.

GOALS

THE COOPERATIVE DEVELOPMENT OF GOALS AND OBJECTIVES BY THE SUPERINTENDENT AND BOARD IS STRONGLY RECOMMENDED, PARTICULARLY TO PROVIDE SOME BASIS AGAINST WHICH THE PERFORMANCE OF THE SUPERINTENDENT MIGHT BE JUDGED.

EVALUATION

AS IN THE DEVELOPMENT OF GOALS AND OBJECTIVES, THE FORMAT FOR EVALUATION SHOULD BE REALISTIC IN TERMS OF BOTH SUPERINTENDENT AND BOARD CAPABILITY. SOME DIMENSIONS WHICH MIGHT BE INCLUDED IN AN EVALUATION FORMAT INCLUDE: BOARD-SUPERINTENDENT RELATIONS, COMMUNITY RELATIONS, STAFF AND PERSONNEL RELATIONS, EDUCATIONAL PROGRAM, BUSINESS AND FINANCIAL MATTERS, AND PROFESSIONAL AND LEADERSHIP DEVELOPMENT. THE ACTUAL RATING SYSTEM CAN RANGE FROM CHECKLISTS WITH BRIEF COMMENTS TO A COMPLETELY NARRATIVE FORM. HOWEVER, IT SHOULD BE STIPULATED THAT THE EVALUATION BE IN WRITING.

RENEWAL OF CONTRACT

IF THE EMPLOYMENT CONTRACT IS NOT RENEWED ON A YEARLY BASIS, A PROVISION MAY BE INCLUDED THAT OBLIGATES THE SCHOOL BOARD TO PROVIDE WRITTEN NOTICE TO THE SUPERINTENDENT 6-12 MONTHS IN ADVANCE OF TERMINATION THAT IT IS THE INTENTION OF THE SCHOOL BOARD NOT TO RENEW THE CONTRACT.

APPROVAL OF CONTRACT

THE EMPLOYMENT CONTRACT SHOULD BE APPROVED IN A PUBLIC MEETING OF THE SCHOOL BOARD AND MADE A PART OF THE PUBLIC RECORD OF THAT MEETING. IT SHOULD BE SIGNED BY THE PRESIDENT OF THE BOARD IN THE NAME AND ON BEHALF OF THE SCHOOL BOARD.

THE EMPLOYMENT CONTRACT SHOULD BE AS BRIEF AS POSSIBLE AND WRITTEN IN PLAIN LANGUAGE. IN THE FINAL ANALYSIS, A SUPERINTENDENT'S EMPLOYMENT CONTRACT IS THE PRODUCT OF A VERY SENSITIVE DELIBERATION BY THE SCHOOL BOARD AND THE SUPERINTENDENT. THE RESULT OF THIS DELIBERATION IS TEMPERED BY LOCAL CUSTOM AND PRACTICE AND SETS THE TONE FOR THE DEVELOPING RELATIONSHIP BETWEEN THE SUPERINTENDENT AND THE SCHOOL BOARD.

FINALLY, IT SHOULD BE NOTED THAT NOT ALL ISSUES OF POTENTIAL MISUNDERSTANDING BETWEEN THE SCHOOL BOARD AND SUPERINTENDENT CAN BE SETTLED IN AN EMPLOYMENT CONTRACT. WRITTEN SCHOOL BOARD POLICIES ARE INDISPENSABLE IN FILLING ANY GAPS.